

Remarks

Claims 1 – 34 are pending. Claims 1 – 34 are rejected. Claims 24 – 34 have been amended. Applicants respectfully traverse the rejection and request allowance of claims 1 – 34.

Claims 1, 7 – 10, 12, 19 – 22, 24, and 30 - 33 are rejected under 35 USC 112 as being indefinite. Paper 3 states that “dedicated communication” is used in the claims to mean a private network communications including voice communications. Paper 3 states that within the arts voice means switched communications. Paper 3 also states that the “accepted meaning” of dedicated communication” means non-switched. The statement that voice means switched communications was not properly officially noticed.

First it is well known that voice communications may be switched or non-switched. A direct private line connection between two customer sites is an example of non-switched voice communication. The examiner is relying on what his belief of the “common knowledge” in the arts is without evidentiary support. “It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697. The 112 rejections are the only rejections for claim 1. Applicant respectfully request that the examiner take official notice that voice can only mean switched, to maintain this rejection.

Second the term dedicated communications is well defined in the specification. On the bottom of page 7, the specifications state “The dedicated communication could be any non-switched communication over a bandwidth allocation exclusively dedicated for a customer’s use” (underline added). On the top of page 8 the specification gives some examples of dedicated communications as “voice, video and data over a private line”. “Dedicated communication link” is also defined as non-switched on page 2, the first line under the description of the prior art. These definitions are consistent with the usage of “dedicated communication” in the claims.

Claims 1, 12, 23, and 24 are rejected under 35 USC 112 as being indefinite. Paper 3 states that “switched communication” is used in the claims to mean a public network communications including “data frame relay (packet switched) or an IP network (packet

switched) per Pg 8 line 5". The examiner has misinterpreted the specification. Page 8 line 5 does list some examples for switched communications, but does not list "data frame relay or an IP network". Those are from page 8 line 2 as examples of "dedicated communications". The applicant respectfully requests that the examiner withdraw the rejection in light of the above information.

Claims 24 - 34 are rejected under 35 USC 112, second paragraph as being indefinite because the metes and bounds of the claim cannot be assessed. The phrases "software product" and "processing system" made it so that the metes and bounds of the claim cannot be assessed. Claim 24 has been amended to clarify that a computer readable medium containing software is being claimed. The software comprises a number of components, one of which is the "dedicated processing system software". Claim 24 - 34 are also rejected under USC 101 because of lack of utility. Software on a computer readable medium configured to be executed by a processor to implement the actions of claim 24 have utility. Claim 24 - 34 are now believed to be in condition for allowance and that action is earnestly requested.

The cited art has been reviewed and is not considered relevant.

Applicants submit that there are numerous additional reasons in support of patentability, but that such reasons are moot in light of the above remarks and are omitted in the interests of brevity. Applicants respectfully request allowance of claims 1 - 34.


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